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SENATE BILL 1792 By  
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HOUSE BILL 1922  
By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6,  
Part 10, to enact the "Tennessee Student Religious Liberty  
Act of 1997".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 10, is amended by  
adding the following new sections:

**Section 49-6-1012.** Tennessee Code Annotated, Sections 49-6-1012--49-6-  
1017 shall be known and may be cited as the "Tennessee Student Religious Liberty Act  
of 1997".

**Section 49-6-1013.** (a) The general assembly finds the following:

(1) Judicial decisions concerning religion and public education are widely  
misunderstood and misapplied.

(2) Confusion surrounding these decisions have:

(A) Caused many public schools to be less accommodating of the  
religious liberty rights of students than the schools are permitted to be  
under the first amendment to the United States Constitution; and

(B) Contributed to the reluctance of public schools to teach about  
religion where appropriate in the curriculum.

(3) The Supreme Court of the United States has ruled that the  
establishment clause of the first amendment to the United States Constitution

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requires that public schools neither advance nor inhibit religion. Public schools should be neutral in matters of faith and treat religion with fairness and respect.

(4) Neutrality to religion does not require hostility to religion. The establishment clause does not prohibit reasonable accommodation of religion, nor does the clause bar appropriate teaching about religion.

(5) Accommodation of religion is required by the free speech and free exercise clauses of the first amendment as well as by the Equal Access Act (20 U.S.C. 4071 et seq.) and the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.).

(6) Setting forth the religious liberty rights of students in a statute would assist students and parents in the enforcement of the religious liberty rights of the students and provide impetus to efforts in public schools to accommodate religious belief in feasible cases.

(b) The purpose of this act is to create a statutory cause of action to enforce the religious liberty rights of students to the extent permissible under the establishment clause.

**Section 49-6-1014.** As used in this act unless the context otherwise requires:

(1) "Establishment clause" means the portion of the first amendment to the United States Constitution that forbids laws respecting an establishment of religion.

(2) "Free exercise clause" means the portion of the first amendment to the United States Constitution that forbids laws prohibiting the free exercise of religion.

(3) "Free speech clause" means the portion of the first amendment to the United States Constitution that forbids laws abridging the freedom of speech.

(4) "Public school" means any school that:

(A) Is operated by the state, a political subdivision of the state, or governmental agency within the state; and

(B) Receives state financial assistance.

(5) "Student" means an individual attending a public school.

**Section 49-6-1015.**

(a) Subject to the provisions of subsection (b) of this section, a student shall have the right to:

(1) Pray in a public school, vocally or silently, alone or with other students;

(2) Express religious viewpoints in a public school;

(3) Speak to and attempt to persuade other students in a public school about religious viewpoints;

(4) Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions;

(5) Have a reasonable number of excused absences from a public school to observe religious holidays and participate in other religious practices required by the religion of the student; and

(6) Be excused from a public school for instruction or devotional exercises off school grounds in accordance with the decision of the United States Supreme Court in Zorach v. Clauson, 343 U.S. 306 (1952).

(b) A student shall have the right to carry out an activity described in any of subparts one (1) through four (4) of subsection (a), if the student does not:

(1) Infringe on the rights of the school to:

(A) Maintain order and discipline; and

(B) Prevent disruption of the educational process;

(2) Harass other persons or coerce other persons to participate in the activity; or

(3) Otherwise infringe on the rights of other persons.

(c) If a right of a student established under this section is violated by a public school, the student may assert the violation as a cause of action or a defense in a judicial proceeding and obtain appropriate relief against the public school. Any such action shall be brought in the circuit or chancery court where the violation occurred or where the student resides. Standing to assert a cause of action or defense under this section shall be governed by the Tennessee Rules of Civil Procedure and common law interpretations of such rules.

(d) A student prevailing in a claim brought against a public school for a violation of this section or an action brought by a public school against a student for conduct covered by this section shall be entitled to reasonable attorney fees, court costs, and the cost of bringing or defending the action.

**Section 49-6-1016.** Any disciplinary or other administrative action brought against a student by a public school, school system, or LEA as a result of conduct that is covered by the provisions of this act shall be brought in accordance with the Tennessee Uniform Administrative Procedures Act, codified in Tennessee Code Annotated, Title 4, Chapter 5.

**Section 49-6-1017.**

(a) Nothing in this act shall be construed to affect, interpret, or in any way address the establishment clause.

(b) The specification of religious liberty rights in this act shall not be construed to exclude or limit religious liberty rights otherwise protected by federal, state or local law.

**SECTION 2.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 3.** This act shall take effect on July 1, 1997, the public welfare requiring it.